

ESTTA Tracking number: **ESTTA87582**

Filing date: **06/28/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	SMARTMONEY
Granted to Date of previous extension	06/28/2006
Address	1755 Broadway New York, NY 10019 UNITED STATES
Correspondence information	Olivia Maria Baratta, Esq. Kilpatrick Stockton LLP 1100 Peachtree Street, NE Suite 2800 Atlanta, GA 30309 UNITED STATES tadmin@kilpatrickstockton.com, mbaratta@kilpatrickstockton.com Phone:4048156500

### Applicant Information

Application No	78546955	Publication date	02/28/2006
Opposition Filing Date	06/28/2006	Opposition Period Ends	06/28/2006
Applicant	Sanders Financial Management, Inc. Suite 240 4725 Peachtree Corners Circle Norcross, GA 30092 UNITED STATES		

### Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial analysis and consultation and investment management
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Attachments	SmartMoney v. Sanders Financial - Notice of Opposition.PDF ( 4 pages ) (302351 bytes )
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Signature	/Maria Baratta/
Name	Olivia Maria Baratta, Esq.
Date	06/28/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SMARTMONEY,	)	
	)	
Opposer,	)	
	)	In re Serial No. 78/546955
v.	)	
	)	Mark: SMART WOMEN, SMART MONEY
SANDERS FINANCIAL	)	
MANAGEMENT, INC.,	)	Opposition No. _____
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer SmartMoney ("SmartMoney"), a New York partnership, the general partners of which are Hearst SM Partnership and Dow Jones & Company, Inc., and which is located at 1755 Broadway, New York, New York 10019, will be damaged by registration of the mark underlying application Serial No. 78/546955 and therefore opposes that application under 15 U.S.C. § 1063 and 37 C.F.R. §§ 2.101 and 2.104(a). The grounds for opposition are as follows:

1. Applicant Sanders Financial Management, Inc. ("Applicant") has filed an intent-to-use application to register the SMART WOMEN, SMART MONEY mark for "financial analysis and consultation and investment management" in International Class 36. Applicant's application was published for opposition in the *Official Gazette* on February 28, 2006 and SmartMoney has requested and received extensions of time in which to oppose the application.

2. Through predecessors in interest, SmartMoney has used in commerce throughout the United States the SMARTMONEY mark in connection with a business and financial magazine since at least as early as March 22, 1983. Since that time, SmartMoney has expanded the means by which it provides information in the fields of investment, business, and finance, and

now offers that information and provides related services via electronic means, including via interactive computer databases. The SMARTMONEY mark serves as an inherently distinctive indicator of the origin of the investment, business, and financial information goods and services offered by SmartMoney.

3. As a result of widespread advertising and promotion by SmartMoney and its predecessors in interest, the SMARTMONEY mark acquired a high degree of recognition, fame, and distinctiveness as a symbol of the high quality financial, investment, and business information goods and services offered by SmartMoney prior to the filing prior to the filing date of Applicant's application. The public and the trade are familiar with and identify the SMARTMONEY mark exclusively with SmartMoney, and goods and services associated with the mark therefore are understood by the public and the trade to be produced, marketed, and supplied by SmartMoney.

4. SmartMoney's SMARTMONEY mark is an important factor employed by the public and the trade in identifying the source of SmartMoney's goods and services and is distinctive of those goods and services.

5. SmartMoney is the owner of the following federal registrations of its mark:

Reg. No.	Mark	Goods/Services	Reg. Date
1419142	SMARTMONEY	Magazine dealing with financial investments and related issues in Class 16.	Dec. 2, 1986
1730322	SMARTMONEY	Magazine dealing with business and financial matters in Class 16.	Nov. 3, 1992
2177037	SMARTMONEY	Providing access to an interactive computer data base in the field of investment, business and financial news and information for the adult investor in Class 42.	Jul. 28, 1998

6. As a result of these and other uses, the SMARTMONEY mark is entitled to a broad scope of protection.

7. On January 13, 2005, Applicant applied to register the SMART WOMEN, SMART MONEY mark on the Principal Register. This application was assigned Serial No. 78/546955.

8. The opposed mark includes the wording SMART MONEY, which is virtually identical to SmartMoney's SMARTMONEY mark. The additional wording SMART WOMEN does not distinguish Applicant's use of SMART MONEY from SmartMoney's SMARTMONEY mark. The marks therefore are similar in appearance and commercial impression, particularly as they are used in connection with the parties' closely related goods and services, which, on information and belief, will be marketed to the same consumers.

9. The relevant public and trade are likely to be confused and will believe mistakenly that the financial, investment, and business services offered or to be offered under the SMART WOMEN, SMART MONEY mark emanate from SmartMoney, or are authorized, licensed, endorsed, or sponsored by SmartMoney. Registration of Applicant's mark thus would be inconsistent with SmartMoney's prior rights in its well-known SMARTMONEY mark.

10. SmartMoney will be damaged by registration of the SMART WOMEN, SMART MONEY mark because the mark so resembles SmartMoney's previously used, federally registered, and well-known SMARTMONEY mark as to be likely, when used in connection with the services identified in application Serial No. 78/546955, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

11. SmartMoney will additionally be damaged by registration of Applicant's SMART WOMEN, SMART MONEY mark because the mark dilutes and is likely to dilute the distinctiveness of SmartMoney's famous SMARTMONEY mark by eroding consumers' exclusive identification of that mark with SmartMoney, and/or by tarnishing and degrading the positive associations and prestigious connotations of the famous SMARTMONEY mark, and/or by otherwise lessening the capacity of SmartMoney's SMARTMONEY mark to identify and distinguish the goods and services of SmartMoney.

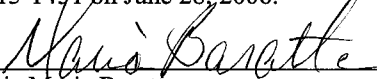
12. Form PTO-2038 is enclosed authorizing the charge of \$300.00 to cover the filing fee for this Notice of Opposition. The Commissioner is authorized to debit the account of Kilpatrick Stockton LLP (Deposit Account No. 11-0860) for any deficiency in the required fee.

SmartMoney therefore requests that application Serial No. 78/546955 be refused, and this Opposition be sustained in favor of SmartMoney.


This 28th day of June, 2006.

CERTIFICATE OF MAILING

I certify that this paper is being deposited with the United States Postal Service as Express Mail in an envelope addressed to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, Virginia 22313-1451 on June 28, 2006.

  
Olivia Maria Baratta

Respectfully submitted,



Theodore H. Davis Jr.

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